



General Assembly

February Session, 2008

Raised Bill No. 242

LCO No. 1528

01528_____PH_

Referred to Committee on Public Health

Introduced by:
(PH)

***AN ACT CONCERNING CHANGES TO STATUTES AFFECTING THE
DEPARTMENT OF DEVELOPMENTAL SERVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) and (b) of sections 17a-210 of the 2008
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective from passage*):

4 (a) There shall be a Department of Developmental Services. The
5 Department of Developmental Services, with the advice of a Council
6 on [Mental Retardation] Developmental Services, shall be responsible
7 for the planning, development and administration of complete,
8 comprehensive and integrated state-wide services for persons with
9 mental retardation and persons medically diagnosed as having Prader-
10 Willi syndrome. The Department of Developmental Services shall be
11 under the supervision of a Commissioner of Developmental Services,
12 who shall be appointed by the Governor in accordance with the
13 provisions of sections 4-5 to 4-8, inclusive, of the 2008 supplement to
14 the general statutes. The Council on [Mental Retardation]
15 Developmental Services may advise the Governor on the appointment.
16 The commissioner shall be a person who has background, training,

17 education or experience in administering programs for the care,
18 training, education, treatment and custody of persons with mental
19 retardation. The commissioner shall be responsible, with the advice of
20 the council, for: (1) Planning and developing complete, comprehensive
21 and integrated state-wide services for persons with mental retardation;
22 (2) the implementation and where appropriate the funding of such
23 services; and (3) the coordination of the efforts of the Department of
24 Developmental Services with those of other state departments and
25 agencies, municipal governments and private agencies concerned with
26 and providing services for persons with mental retardation. The
27 commissioner shall be responsible for the administration and
28 operation of the state training school, state [mental retardation]
29 developmental services regions and all state-operated community-
30 based residential facilities established for the diagnosis, care and
31 training of persons with mental retardation. The commissioner shall be
32 responsible for establishing standards, providing technical assistance
33 and exercising the requisite supervision of all state-supported
34 residential, day and program support services for persons with mental
35 retardation and work activity programs operated pursuant to section
36 17a-226 of the 2008 supplement to the general statutes. The
37 commissioner shall conduct or monitor investigations into allegations
38 of abuse and neglect and file reports as requested by state agencies
39 having statutory responsibility for the conduct and oversight of such
40 investigations. In the event of the death of a person with mental
41 retardation for whom the department has direct or oversight
42 responsibility for medical care, the commissioner shall ensure that a
43 comprehensive and timely review of the events, overall care, quality of
44 life issues and medical care preceding such death is conducted by the
45 department and shall, as requested, provide information and
46 assistance to the Independent Mortality Review Board established by
47 Executive Order No. 25 of Governor John G. Rowland. The
48 commissioner shall report to the board and the board shall review any
49 death: (A) Involving an allegation of abuse or neglect; (B) for which the
50 Office of Chief Medical Examiner or local medical examiner has

51 accepted jurisdiction; (C) in which an autopsy was performed; (D)
 52 which was sudden and unexpected; or (E) in which the commissioner's
 53 review raises questions about the appropriateness of care. The
 54 commissioner shall stimulate research by public and private agencies,
 55 institutions of higher learning and hospitals, in the interest of the
 56 elimination and amelioration of mental retardation and care and
 57 training of persons with mental retardation.

58 (b) The commissioner shall be responsible for the development of
 59 criteria as to the eligibility of any person with mental retardation for
 60 residential care in any public or state-supported private institution
 61 and, after considering the recommendation of a properly designated
 62 diagnostic agency, may assign such person to a public or state-
 63 supported private institution. The commissioner may transfer such
 64 persons from one such institution to another when necessary and
 65 desirable for their welfare, provided such person and such person's
 66 parent, conservator, guardian or other legal representative receive
 67 written notice of their right to object to such transfer at least ten days
 68 prior to the proposed transfer of such person from any such institution
 69 or facility. Such prior notice shall not be required when transfers are
 70 made between residential units within the training school or a state
 71 [mental retardation] developmental services region or when necessary
 72 to avoid a serious and immediate threat to the life or physical or
 73 mental health of such person or others residing in such institution or
 74 facility. The notice required by this subsection shall notify the recipient
 75 of his or her right to object to such transfer, except in the case of an
 76 emergency transfer as provided in this subsection, and shall include
 77 the name, address and telephone number of the Office of Protection
 78 and Advocacy for Persons with Disabilities. In the event of an
 79 emergency transfer, the notice required by this subsection shall notify
 80 the recipient of his or her right to request a hearing in accordance with
 81 subsection (c) of this section and shall be given within ten days
 82 following the emergency transfer. In the event of an objection to the
 83 proposed transfer, the commissioner shall conduct a hearing in
 84 accordance with subsection (c) of this section and the transfer shall be

85 stayed pending final disposition of the hearing, provided no such
86 hearing shall be required if the commissioner withdraws such
87 proposed transfer.

88 Sec. 2. Section 17a-210a of the 2008 supplement to the general
89 statutes is repealed and the following is substituted in lieu thereof
90 (*Effective from passage*):

91 (a) There is established an independent ombudsman office within
92 the Department of Developmental Services that is responsible for
93 receiving and making recommendations to the commissioner for
94 resolving complaints affecting consumers under the care or
95 supervision of the department or of any public or private agency with
96 which the department has contracted for the provision of services.

97 (b) The director of the ombudsman office shall be appointed by the
98 Governor, with the approval of the General Assembly. Said director
99 shall be an elector of the state with expertise and experience in the
100 fields of [mental retardation] developmental services and advocacy for
101 the rights of the consumers specified in subsection (a) of this section
102 and shall be exempt from the classified service.

103 (c) Upon the vacancy of the director of the ombudsman office by the
104 person serving in such position on July 1, 2004, and whenever
105 thereafter the term of such position expires or there is a vacancy in
106 such position, the Governor shall appoint the director of the
107 ombudsman office from a list of candidates prepared and submitted to
108 the Governor by the Council on [Mental Retardation] Developmental
109 Services, established by section 17a-270 of the 2008 supplement to the
110 general statutes, as amended by this act. The Governor shall notify the
111 council of the pending expiration of the term of an incumbent
112 ombudsman not less than ninety days prior to the final day of the
113 ombudsman's term in office. If a vacancy occurs in the position of
114 ombudsman, the Governor shall notify the council immediately of the
115 vacancy. The council shall meet to consider qualified candidates for
116 the position of ombudsman and shall submit a list of not more than

117 five candidates to the Governor ranked in order of preference, not
 118 more than sixty days after receiving notice from the Governor of the
 119 pending expiration of the ombudsman's term or the occurrence of a
 120 vacancy. The Governor shall designate, not more than sixty days after
 121 receipt of the list of candidates from the council, one candidate from
 122 the list for the position of ombudsman. If, after the list is submitted to
 123 the Governor by the council, any candidate withdraws from
 124 consideration, the Governor shall designate a candidate from those
 125 remaining on the list. If the Governor fails to designate a candidate
 126 within sixty days of receipt of the list from the council, the council
 127 shall refer the candidate with the highest ranking on the list to the
 128 General Assembly for confirmation. If the General Assembly is not in
 129 session at the time of the Governor's or council's designation of a
 130 candidate, the candidate shall serve as the acting ombudsman until the
 131 General Assembly meets and confirms the candidate as ombudsman.
 132 A candidate serving as acting ombudsman shall be entitled to
 133 compensation and have all the powers, duties and privileges of the
 134 ombudsman. An ombudsman shall serve a term of four years, not
 135 including any time served as acting ombudsman, and may be
 136 reappointed by the Governor or shall remain in the position until a
 137 successor is appointed pursuant to this subsection. Although an
 138 incumbent ombudsman may be reappointed, the Governor shall also
 139 consider additional candidates from a list submitted by the council as
 140 provided in this section.

141 (d) The director of the ombudsman office shall report monthly to
 142 the Council on [Mental Retardation] Developmental Services and, in
 143 accordance with the provisions of section 11-4a, annually to the joint
 144 standing committee of the General Assembly having cognizance of
 145 matters relating to public health.

146 Sec. 3. Section 17a-270 of the 2008 supplement to the general statutes
 147 is repealed and the following is substituted in lieu thereof (*Effective*
 148 *from passage*):

149 (a) There is established a Council on [Mental Retardation]
 150 Developmental Services which shall consist of thirteen members
 151 appointed as follows: Eight shall be appointed by the Governor, one of
 152 whom shall be a doctor of medicine, one of whom shall be a person
 153 with mental retardation who is receiving services from the Department
 154 of Developmental Services and at least two of whom shall be parents
 155 or guardians of persons with mental retardation, to serve for terms of
 156 two years each; four shall be appointed by members of the General
 157 Assembly for two-year terms, one who shall be a parent or guardian of
 158 a person with mental retardation, appointed by the speaker of the
 159 House, one appointed by the minority leader of the House, one
 160 appointed by the president pro tempore of the Senate and one who
 161 shall be a parent or guardian of a person with mental retardation,
 162 appointed by the minority leader of the Senate; and one who shall be a
 163 member of the board of trustees of the Southbury Training School,
 164 appointed by said board for a term of one year. No member may serve
 165 more than six consecutive years. The members of the council shall
 166 serve without compensation except for necessary expenses incurred in
 167 performing their duties. The Commissioner of Developmental Services
 168 or the commissioner's designee shall be an ex-officio member of the
 169 Council on [Mental Retardation] Developmental Services without vote
 170 and shall attend its meetings. No employee of any state agency or
 171 institution engaged in the care or training of persons with mental
 172 retardation shall be eligible for appointment to the council. The council
 173 shall appoint annually, from among its members, a [chairman]
 174 chairperson, vice [chairman] chairperson and secretary. The council
 175 may make rules for the conduct of its affairs. The council shall meet at
 176 least bimonthly and at other times upon the call of the chair or the
 177 written request of any two members.

178 (b) The council shall consider and advise on such matters as its
 179 members, the board of trustees of the training school and the
 180 Commissioner of Developmental Services may request. The council
 181 shall consult with the Commissioner of Developmental Services on the
 182 administration of the state program for [the mentally retarded] persons

183 with mental retardation. The council shall recommend to the Governor
184 and to the General Assembly such legislation as will in its judgment
185 improve the care and training of [mentally retarded] persons with
186 mental retardation.

187 Sec. 4. Section 19a-24 of the 2008 supplement to the general statutes
188 is repealed and the following is substituted in lieu thereof (*Effective*
189 *from passage*):

190 (a) Any claim for damages in excess of seven thousand five hundred
191 dollars on account of any official act or omission of the Commissioner
192 of Public Health or the Commissioner of Developmental Services or
193 any member of their staffs, any member of the Council on Tuberculosis
194 Control, Hospital Care and Rehabilitation, the Council on [Mental
195 Retardation] Developmental Services or either of the boards of trustees
196 of the state training schools or any member of any regional advisory
197 and planning council or any superintendent, director, employee or
198 staff member of any chronic disease hospital or state training school or
199 state [mental retardation] developmental services region shall be
200 brought as a civil action against the commissioners in their official
201 capacities and said commissioners shall be represented therein by the
202 Attorney General in the manner provided in chapter 35. Damages
203 recovered in such action shall be a proper charge against the General
204 Fund of the state and shall be paid in the manner provided in section
205 3-117 of the 2008 supplement to the general statutes. Any such claim
206 for damages not in excess of seven thousand five hundred dollars shall
207 be presented to the Claims Commissioner in accordance with chapter
208 53 if such claim is otherwise cognizable by the Claims Commissioner.

209 (b) Neither the Commissioner of Public Health nor the
210 Commissioner of Developmental Services nor any member of their
211 staffs, shall be held personally liable in any civil action for damages on
212 account of any official act or omission of any superintendent, director,
213 employee or staff member of any chronic disease hospital or state
214 training school or state [mental retardation] developmental services

215 region nor on account of any official act or omission of such
216 commissioners or member of their staffs or any member of the councils
217 or boards of trustees created by sections 17a-270 of the 2008
218 supplement to the general statutes, as amended by this act and 17a-271
219 of the 2008 supplement to the general statutes.

220 (c) No employee or staff member of said commissioners or any
221 superintendent, director, employee or staff member of any chronic
222 disease hospital or state training school or state [mental retardation]
223 developmental services region shall be held personally liable in any
224 civil action for damages on account of any official act or omission not
225 wanton or wilful of such superintendent, director, employee or staff
226 member.

227 (d) The state of Connecticut shall indemnify and save harmless each
228 member of the councils or boards of trustees established by sections
229 17a-270 of the 2008 supplement to the general statutes, as amended by
230 this act, 17a-271 of the 2008 supplement to the general statutes and
231 17a-273 of the 2008 supplement to the general statutes, as amended by
232 this act, from all claims and demands that may accrue or be asserted
233 by reason of any act of such councils or boards of trustees or any
234 failure to act by such councils or boards of trustees where no malice,
235 fraud or conflict of interest is found to exist. The provisions of this
236 section shall be deemed to apply individually to each member of such
237 councils or boards of trustees.

238 (e) Any person to whom the provisions of subsection (b), (c) or (d)
239 hereof are applicable and against whom any action shall be brought on
240 account of any act alleged to be an official act or omission as aforesaid
241 or any other act as to which protection is afforded by the provisions of
242 this section shall be represented therein by the Attorney General in the
243 manner provided in chapter 35.

244 Sec. 5. Section 17a-272 of the 2008 supplement to the general statutes
245 is repealed and the following is substituted in lieu thereof (*Effective*
246 *from passage*):

(a) The director of each training school or state [mental retardation] developmental services region shall be appointed by the Commissioner of Developmental Services, and shall be removable in the same manner. The director shall be a trained administrator of services and facilities engaged in the care, custody, treatment and training of mentally retarded persons. Each director shall be subject to the direction of the Commissioner of Developmental Services and shall be responsible for the operation and the administration of the training school or state [mental retardation] developmental services region.

(b) Each director may with the approval of the Commissioner of Developmental Services appoint four assistant directors for the efficient conduct of the business of each training school or state [mental retardation] developmental services region. Each director shall designate an assistant director who shall in the absence or disqualification of the director or on his death, exercise the powers and duties of the director until he resumes his duties or the vacancy is filled. Assistant directors shall be removable by the director.

Sec. 6. Section 17a-273 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state [mental retardation] developmental services region operated by the Department of Developmental Services, which council shall have the responsibility of consulting with and advising the director of the region on the needs of [mentally retarded] persons with mental retardation in the region, the annual plan and budget of the region and other matters deemed appropriate by the council.

(b) Each such council shall consist of at least ten members appointed from the state [mental retardation] developmental services region. No employee of any state agency or institution engaged in the care or training of [mentally retarded] persons with mental retardation shall

279 be eligible for appointment. At least one member shall be designated
 280 by the incorporated local association for mentally retarded citizens in
 281 the region. In cases where a state [mental retardation] developmental
 282 services region serves an area with more than one such association, at
 283 least two members of the council shall be designated by such
 284 associations. At least one member of each council shall be an attorney
 285 practicing law in the state of Connecticut who is familiar with issues in
 286 the field of mental retardation. At least two members shall be parents
 287 of persons [who are mentally retarded] with mental retardation.
 288 Members shall be appointed for terms of three years. No member may
 289 serve more than two consecutive terms. Each council shall appoint
 290 annually, from among its members, a chairperson, vice-chairperson
 291 and secretary. The council may make rules for the conduct of its
 292 affairs. The director of the region shall be an ex-officio member of the
 293 council without vote and shall attend its meetings.

294 (c) The council shall meet at least six times a year and at other times
 295 upon the call of the chair or the director of the state [mental
 296 retardation] developmental services region or on the written request of
 297 any two members. A majority of the council members in office shall
 298 constitute a quorum. Any member who fails to attend three
 299 consecutive meetings or who fails to attend fifty per cent of all
 300 meetings held during any calendar year shall be deemed to have
 301 resigned from office.

302 Sec. 7. Section 17a-280 of the general statutes is repealed and the
 303 following is substituted in lieu thereof (*Effective from passage*):

304 (a) [Mentally retarded persons,] Persons with mental retardation
 305 who are not serious discipline problems [.] may be recommitted by a
 306 [regular] probate court commitment from any institution in the state to
 307 the Southbury Training School, a state [mental retardation]
 308 developmental services region or any state facility provided for the
 309 care and training of [the mentally retarded] persons with mental
 310 retardation. The court of probate situated in the town wherein the

311 institution from which such [mentally retarded] person with mental
312 retardation is recommitted shall have jurisdiction.

313 (b) Any [mentally retarded] resident with mental retardation of any
314 such institution may be transferred from the institution to which [he]
315 the resident is committed or admitted to any of the other institutions
316 upon the agreement of the superintendents or directors.

317 (c) Mentally ill persons may be transferred from any such institution
318 to any state hospital for the mentally ill upon agreement of the
319 superintendents of the respective institutions from and to which it is
320 desired to make such a transfer. The state hospitals for the mentally ill
321 may transfer any [mentally retarded] person with mental retardation,
322 not psychotic, to the Southbury Training School, a state [mental
323 retardation] developmental services region or any state facility
324 provided for the care and training of [the mentally retarded] persons
325 with mental retardation upon agreement of the superintendents or
326 directors of the respective institutions from and to which it is desired
327 to make such a transfer.

328 (d) The cost of any transfer or recommitment shall be paid by the
329 institution from which the transfer is made. When a patient or resident
330 of any institution is transferred, the order of commitment shall be
331 retained in the original institution to which the patient or resident was
332 committed and a certified copy of such commitment, with the
333 agreement of transfer, shall accompany [him] the patient or resident to
334 the institution to which [he] the patient or resident is transferred.

335 Sec. 8. Subsection (a) of section 17a-217a of the 2008 supplement to
336 the general statutes is repealed and the following is substituted in lieu
337 thereof (*Effective from passage*):

338 (a) There shall be a Camp Harkness Advisory Committee to advise
339 the Commissioner of Developmental Services with respect to issues
340 concerning the health and safety of persons who attend and utilize the
341 facilities at Camp Harkness. The advisory committee shall be

342 composed of twelve members as follows: (1) The director of Camp
 343 Harkness, who shall serve [ex officio] ex-officio, one member
 344 representing the Southeastern Connecticut Association for [the
 345 Retarded] Developmental Disabilities, one member representing the
 346 Southbury Training School, one member representing the Association
 347 for Retarded Citizens of New London County, one consumer
 348 representing persons who use the camp on a residential basis and one
 349 member representing parents or guardians of persons who use the
 350 camp, all of whom shall be appointed by the Governor; (2) one
 351 member representing parents or guardians of persons who use the
 352 camp, who shall be appointed by the president pro tempore of the
 353 Senate; (3) one consumer from the Family Support Council established
 354 pursuant to section 17a-219c of the 2008 supplement to the general
 355 statutes representing persons who use the camp on a day basis, who
 356 shall be appointed by the speaker of the House of Representatives; (4)
 357 one member representing the board of selectmen of the town of
 358 Waterford, who shall be appointed by the majority leader of the House
 359 of Representatives; (5) one member representing the Camp Harkness
 360 Booster Club, who shall be appointed by the majority leader of the
 361 Senate; (6) one member representing the Connecticut Institute for the
 362 Blind and the Oak Hill School, who shall be appointed by the minority
 363 leader of the House of Representatives; and (7) one member
 364 representing the United Cerebral Palsy Association, who shall be
 365 appointed by the minority leader of the Senate.

366 Sec. 9. Subsection (e) of section 5-259 of the 2008 supplement to the
 367 general statutes is repealed and the following is substituted in lieu
 368 thereof (*Effective from passage*):

369 (e) Notwithstanding the provisions of subsection (a) of this section,
 370 (1) vending stand operators eligible for membership in the state
 371 employee's retirement system pursuant to section 5-175a, shall be
 372 eligible for coverage under the group hospitalization and medical and
 373 surgical insurance plans procured under this section, provided the cost
 374 for such operators' insurance coverage shall be paid by the Board of

375 Education and Services for the Blind from vending machine income
 376 pursuant to section 10-303, and (2) blind persons employed in
 377 workshops, established pursuant to section 10-298a, on December 31,
 378 2002, shall be eligible for coverage under the group hospitalization and
 379 medical and surgical insurance plans procured under this section,
 380 provided the cost for such persons' insurance coverage shall be paid by
 381 the Board of Education and Services for the Blind. General workers
 382 employed in positions by the Department of Developmental Services
 383 as self-advocates, not to exceed [ten] eleven employees, shall be
 384 eligible for sick leave, in accordance with section 5-247 of the 2008
 385 supplement to the general statutes, vacation and personal leave, in
 386 accordance with section 5-250, and holidays, in accordance with
 387 section 5-254.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17a-210(a) and (b)
Sec. 2	<i>from passage</i>	17a-210a
Sec. 3	<i>from passage</i>	17a-270
Sec. 4	<i>from passage</i>	19a-24
Sec. 5	<i>from passage</i>	17a-272
Sec. 6	<i>from passage</i>	17a-273
Sec. 7	<i>from passage</i>	17a-280
Sec. 8	<i>from passage</i>	17a-217a(a)
Sec. 9	<i>from passage</i>	5-259(e)

Statement of Purpose:

To make various technical changes to statutes affecting the Department of Developmental Services.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]